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OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/BII/18/76

The following Bill passed by the Legislative Assembly of Goa, Daman and Diu which received the assent of the President of India on 8th October, 1976 is hereby published for general information.

B. S. Subbanna, Under Secretary (Law).

Panaji, 13th October, 1976.

The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976

(Act No. 17 of 1976) [8th October, 1976]

AN

ACT

further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (7 of 1964) (hereinafter referred to as the principal Act),—

(a) for clause (1A), the following clause shall be substituted, namely:—

‘(1A) “agriculture” includes horticulture and raising of food crops, grass or garden produce, but does not include allied pursuits;’

(b) after clause (7) and the *Explanations* thereto, the following clauses shall be inserted, namely:—

‘(7A) “garden” means land used primarily for growing coconut trees, arecanut trees, cashewnut trees or mango trees;

(7B) “garden produce” means any produce from a garden;’

(c) for sub-clause (i) of clause (11), the following clause shall be substituted, namely:—

‘(i) “land” means land which is used for agriculture or which is capable of being so used, but is left fallow, and includes farm buildings appurtenant to such land:

Provided that nothing in this clause shall apply to land which is in the possession of a Mundkar, otherwise than as a tenant.

Explanation.— For the purposes of this clause, the expression “Mundkar” shall have the meaning assigned to it in clause (p) of section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (1 of 1976);’

(d) after clause (19), the following clause shall be inserted, namely:—

‘(19A) “purchase price” means the price determined by the Mamlatdar under section 18C;’

(e) after clause (23), the following clause shall be inserted, namely:—

‘(23A) “tillers’ day” means the date of introduction of the Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Bill, 1976, in the Legislative Assembly;’

3. *Insertion of new Chapter IIA.*— After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IIA

Special rights and privileges of tenants

18A. *Tenants deemed to have purchased lands on tillers’ day.*— (1) On the tillers’ day, every tenant shall, subject to the other provisions of this Act, be deemed to have purchased from his landlord the land held by him as a tenant and such land shall vest in

him free from all encumbrances subsisting on the said day.

(2) Where a tenant, on account of his eviction from the land by the landlord before the tillers' day, is not in possession of the land on the said day, but has made or makes an application for possession of the land under section 18 within the period specified therein, then, if the application is allowed by the Mamlatdar or, as the case may be, in appeal by the Collector or in revision by the Administrative Tribunal, he shall be deemed to have purchased the land on the day on which the final order allowing the application is passed.

(3) Where a tenant referred to in sub-section (2) has not made an application for possession within the period specified under section 18 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of the application.

(4) If a tenant is not in possession of the land on the tillers' day on account of his being dispossessed otherwise than in the manner provided in section 11 and the land is, —

(a) in possession of the landlord or his successor in interest; and

(b) not put to a non-agricultural use, the Mamlatdar shall notwithstanding anything contained in this Act,

either *suo motu* or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor in interest and shall be restored to the tenant and the provisions of this Chapter shall, in so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him:

Provided that the tenant shall not be entitled to restoration under this sub-section unless he undertakes to cultivate the land personally.

Explanation. — In this sub-section, "successor-in-interest" means a person who acquires the interest by testamentary disposition or devolution on death.

(5) In respect of the land deemed to have been purchased by a tenant under sub-section (1), —

(a) the tenant-purchaser shall be liable to pay to the former landlord the purchase price; and

(b) the tenant-purchaser shall be liable to pay to the Government, the dues, if any, from the tillers' day.

18B. Right of tenant to purchase land where he is a minor, etc. — (1) Notwithstanding anything contained in section 18A, where the tenant is a minor or a widow or a person subject to mental or physical disability or a serving member of the Defence Forces, the right to purchase land under that section may be exercised —

(a) by the minor within one year from the date on which he attains majority;

(b) by the successor in title of the widow within one year from the date on which her interest in the land ceases to exist;

(c) within one year from the date on which the mental or physical disability of the tenant ceases to exist;

(d) within one year from the date on which the tenant ceases to be a serving member of the Defence Forces:

Provided that where a person of any such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section, unless before the tillers' day the share of such person in the joint family has been separated by metes and bounds, and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated having regard to the area, assessment, classification and the value of the land, in the same proportion as the share of that person in the entire joint family property.

(2) A tenant desirous of exercising the right conferred on him under sub-section (1) shall give an intimation in that behalf to the landlord and the Mamlatdar within whose jurisdiction the land is situated, in the prescribed manner within the period specified in that sub-section.

(3) The provisions of section 18A and sections 18C to 18I shall, so far as may be applicable, apply to such purchase.

18C. Mamlatdar to issue notices and determine price of land to be paid by tenants. — (1) As soon as may be after the tillers' day, the Mamlatdar shall publish or cause to be published a public notice in the prescribed form in the Official Gazette and also in such other manner as may be prescribed calling upon —

(a) all tenants who under section 18A are deemed to have purchased the lands;

(b) all landlords of such lands; and

(c) all other persons interested therein, to appear before him on the date specified in the notice.

(2) The Mamlatdar shall issue a notice individually to each such tenant, landlord and also to the other persons referred to in clause (c) of sub-section (1), calling upon each of them to appear before him on the date specified in the public notice.

(3) The Mamlatdar shall record in the prescribed manner the statement of the tenant whether he is or is not willing to purchase the land held by him as a tenant.

(4) Where any tenant fails to appear or makes a statement that he is not willing to purchase the land, the Mamlatdar shall, by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective:

Provided that if such order is passed in default of the appearance of any party, the Mamlatdar shall communicate such order to the parties and any party on whose default the order was passed may within sixty days from the date on which the order

was communicated to him apply for the review of the same.

(5) If a tenant is willing to purchase, the Mamlatdar shall, after giving an opportunity to the tenant and the landlord and all other persons interested in such land to be heard and after holding an inquiry determine the purchase price for such land in accordance with the provisions of section 18D.

(6) In the case of a tenant who is deemed to have purchased the land on a date subsequent to the tillers' day, the Mamlatdar shall, as soon as may be after such day, determine the price of the land.

18D. Purchase price payable to the landlords. —

(1) The purchase price payable by a tenant to the landlord in relation to the land which has been deemed to have been purchased by the tenant under section 18A shall be an amount equivalent to fifteen times the net average annual income of the land for the three years immediately preceding the tillers' day or the amount indicated in column 2 of the Table below in respect of the categories of land specified in the corresponding entry in column 1 thereof, whichever is lower.

TABLE

Category of land	Purchase price (in rupees) per hectare
1	2
<i>Garden consisting primarily of:</i>	
a) Coconut trees	4,000
b) Arecanut trees	3,000
c) Mango trees	2,500
d) Cashew trees	1,600
<i>Rice land:</i>	
a) Kher	4,000
b) Khazan	3,600
c) Morod	1,600
<i>Wet land where sugarcane is cultivated:</i>	2,500

(2) For the purposes of determining the net average annual income of a land for the three years immediately preceding the tillers' day, the Mamlatdar shall take into account the cost of the seeds, fertilisers, labour involved and such other matters as may be prescribed.

18E. Mode of payment of purchase price by tenant. —

(1) On the determination of the purchase price by the Mamlatdar under section 18C, the tenant shall deposit the purchase price with the Mamlatdar in the manner provided in this section.

(2) The tenant shall have the option to deposit the purchase price either in lumpsum or in ten equal annual instalments.

(3) The first instalment of the purchase price or where the purchase price is payable in a lumpsum under sub-section (2), the lumpsum, shall be paid by the tenant within a period of six months from the date of passing of the order of the Mamlatdar under section 18C.

(4) The second or subsequent instalments of the purchase price shall be paid within a period of one year from the date on which the previous instalment was due.

(5) Where the lumpsum payment or any instalment of the purchase price has not been deposited on the due date, the amount in default shall carry interest at the rate of six per cent per annum.

18F. Amount of purchase price to be applied towards satisfaction of debts. — (1) The Mamlatdar shall in an inquiry held under section 18C, determine any encumbrances lawfully subsisting on the land on the tillers' day.

(2) If the total amount of the encumbrances is less than the purchase price determined under that section, —

(i) where the purchase price is paid in lumpsum, it shall be deducted from the purchase price and the balance paid to the former landlord;

(ii) where the purchase price is made payable in instalments, the Mamlatdar shall deduct such amount from such instalments towards the payment of such encumbrances:

Provided that where under any agreement, award, decree or order of a court or under any law, the amount of the encumbrances is recoverable in instalments, the Mamlatdar shall deduct such amount as he deems reasonable from the instalments so payable.

(3) If the total amount of the encumbrances is more than the amount so determined, the purchase price in lumpsum or the instalments, as the case may be, shall be distributed in the order of priority and if any person has a right to receive maintenance or alimony from the profits of the land the Mamlatdar shall also make deductions for payment out of the purchase price.

(4) Nothing in this section shall affect the rights of the holder of any such encumbrance to proceed against the former landlord in any other manner or under any other law for the time being in force.

18G. Recovery of purchase price as arrears of land revenue. — If the tenant-purchaser makes a default in the payment of the whole or part of the purchase price, the Mamlatdar shall, on an application made in this behalf by the landlord proceed to recover such sum which is in arrears on the date of application, together with any interest due as arrears of land revenue.

18H. Purchase to be ineffective on tenant-purchaser's failure to pay purchase price. — (1) On the deposit of the purchase price in lumpsum or of the first instalment of such price, the Mamlatdar shall issue a certificate of purchase in the prescribed form to the tenant-purchaser in respect of the land and such certificate shall, subject to sub-section (2), be conclusive evidence of the purchase.

(2) In the event of failure of recovery of purchase price as arrears of land revenue under section 18G, the purchase shall be ineffective and the land shall be at the disposal of the Mamlatdar under section 18J and any amount deposited by such tenant-purchaser towards the price of the land shall be refunded to him.

18I. *Right of tenant whose tenancy has been created after tillers' day.*— (1) Notwithstanding any agreement or usage to the contrary, in respect of any tenancy created after the tillers' day, a tenant shall be entitled within one year from the commencement of such tenancy to purchase from the landlord the land held by him.

(2) The provisions of this Chapter shall in so far as may be applicable, apply to the purchase of the land by a tenant under sub-section (1).

18J. *Power of Mamlatdar to resume and dispose of land not purchased by the tenant.*— (1) Where the purchase of any land by the tenant under section 18A becomes ineffective under section 18C or section 18H or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 18B, the Mamlatdar may, *suo motu* or on an application made in this behalf, and in cases other than those cases in which the purchase has become ineffective by reason of section 18C or section 18H, after holding a formal inquiry, direct that the land or part thereof shall be disposed of in the manner provided in sub-section (2).

(2) The Mamlatdar shall make an order directing that the land or part thereof, referred to in sub-section (1) shall be disposed of by sale to any person in the following order of priority:

(i) 75 per cent of such land shall be disposed of by sale to persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:—

(a) serving member of the Defence Forces or an ex-serviceman or a freedom fighter, who agrees to cultivate the land personally;

(b) agricultural labourers;

(c) landless persons;

(d) a co-operative farming society registered as such under the Maharashtra Co-operative Societies Act, 1960, as in force in the Union Territory of Goa, Daman and Diu.

Explanation I.—Where the Mamlatdar has to select under this sub-section one or more persons having the same order of priority, preference shall be given to a person residing in the village in which the land is situated. In the event of there being more than one applicant having the same priority, the land shall be disposed of by sale, by drawing lots. The maximum area of the land that shall be sold to an individual shall be equivalent to one "economic holding" as defined in clause (e) of rule 2 of the Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971.

Explanation II.—For the purposes of this sub-section, "freedom fighter" means a person who has,—

(a) suffered imprisonment or detention for a period of not less than six months; or

(b) become permanently incapacitated as a result of any firing or lathi charge; or

(c) lost his job or means of livelihood or the whole or part of any of his property, by reason of his participation in the national movement for the liberation of Goa, Daman and Diu.

(3) Where any land is disposed of under sub-section (2), the Mamlatdar shall determine the price of the land in accordance with the provisions of section 18C and the price so determined shall be paid in accordance with the provisions of section 18E.

(4) Where any land or portion thereof is offered for sale under sub-section (2), but no person comes forward to purchase such land or portion, as the case may be, it shall vest in the Government free from all encumbrances subsisting on the tillers' day and the purchase price payable by the Government to the landlord in respect of the land so vested in the Government shall be paid in cash.

18K. *Restrictions on transfers of land purchased under this Chapter.*—No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Mamlatdar:

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land.

18L. *Power to make rules.*— (1) The Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the tenant should intimate the landlord and the Mamlatdar under sub-section (2) of section 18B;

(b) the form of public notice and the manner in which it is to be published under sub-section (1) of section 18C;

(c) any other matter which is required to be prescribed."

4. *Omission of Chapter III.*—Chapter III of the principal Act shall be omitted.

5. *Amendment of section 49.*—In sub-section (1) of section 49 of the principal Act, after the words "From every order", the brackets and words "(including an order passed under Chapter IIA)," shall be inserted.

6. *Repeal of Act 11 of 1971.*—The Goa, Daman and Diu Protection of Rights of Tenants (Cashewnut and Arecanut Gardens) Act, 1971, is hereby repealed.

Secretariat,

Panaji,

13th October, 1976.

K. C. D. GANGWANI

Secretary to the Government of Goa,
Daman and Diu, Law and
Judiciary Department.